

GOVERNMENT OF TELANGANA

ABSTRACT

Tribal Welfare Department - Sangareddy District – Appeal Petition filed by Smt. D. Jyothi, W/o B. Maruthi Occ: SGT, Primary School, Shiversandu Thanda, Narayanakhed Mandal, Medak District, filed under Section 7(2) of the Act 16 of 1993, against the Procs.No.C2/CV/DLSC/4638/2011-IV, dated 29.06.2013 of the District Collector, Medak at Sangareddy (Now Sangareddy District) – Uphold the orders of the District Collector, Medak at Sangareddy in Procs.No.C2/CV/DLSC/4638/2011-IV, dated 29.06.2013 and Dismissed the appeal filed by Smt. D. Jyothi, W/o B. Maruthi - Orders – Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 42

**Dated: 05-06-2021,
Read the following:-**

1. Proceedings of the District Collector, Medak at Sanga Reddy, Rc No. C2/CV/DLSC/4638/2011-IV, dt.29.06.2013.
2. From the letter of Sri Ramulu Naik, MLC along with the Appeal Petition filed by Smt.D.Jyothi, W/o B.Maruthi Occ: SGT, Primary School, Shiversandu Thanda, Narayana khed Mandal, Medak District before M (TW), No.335/M(TW)/2015, dt.21.05.2015.
3. Govt.Memo.No.3897/LTR.A2/2015,Dt:25.05.2015.
4. Govt.Memo.No.3897/LTR.A2/2015,Dt:30.07.2015.
5. Lr. No. C2/CV/DLSC/4638/2011-IV, dt.20.08.2015
of the Collector & District Magistrate, Medak at Sanga Reddy.
6. Govt.Memo.No.3897/LTR.A2/2015,Dt:02.09.2015,08.09.2017.
7. Lr. No. C2/CV/DLSC/4638/2011-IV, dt.09.10.2017
of the Collector & District Magistrate, Sanga Reddy.
8. Govt.Memo.No.3897/LTR.A2/2015,Dt:06.11.2017, 14.09.2018.
9. Lr. Rc.No. 8186/A2(B2)/2011-2, dt.08.07.2019
of the Collector & District Magistrate, Sanga Reddy.
10. Govt.Lr. No.3897/LTR.A2/2015,Dt:25.11.2019
11. Representation of Smt. D. Jyothi, W/o B. Maruthi
Occ: Ex. SGT,Primary School, Shiversandu Thanda,
R/o H. No. 4- 14/1, TurkapalliThanda Village, Narayanakhed Mandal,
Sangareddy District, dated: 09.12.2019 & 06.03.2020
12. From the PS to Hon'ble M(STW, W& CW) Note No.77/N/M/
(STW, W & CW)/2020, dt: 11.12.2019 & 24.01.2020.
13. Govt.Lr. No.3897/TW.LTR/2015,Dt:20.12.2019
14. Govt.Lr. No.3897/TW.LTR/2015,Dt:14.02.2020
15. Letter No2991/Ser.IV-1/2017-1, dated 11.02.2020 of the Commissioner,
School Education, Hyderabad
16. From the PS to Hon'ble M(STW, W& CW) Note No.167/N/M/
(STW, W & CW)/2020, dt: 17.09.2020.
17. Govt.Appeal Notice No.3897/TW.LTR/2015, Dt:23.09.2020.

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ORDER:

In the reference 1st read above, the Collector & District Magistrate Medak at Sangareddy in Procs.No.C2/CV/DLSC/4638/2011-IV, dated 29.06.2013 had cancelled the ST (Lambada) Caste Certificate bearing No.D/1519/2002, dated 17.05.2002 issued to Smt.D.Jyothi W/o Maruthi as it was proved to be fraudulently obtained and that she belongs to BC (Rangari) community. The findings of the DLSC are as follows:

- Sri Ramesh Chavan, President, Banjara Sevalal Sangham, Medak District had

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filed a complaint stating that during the selection of various posts in Medak District, some of the ST women candidates selected unlawfully while some of them were born in Maharashtra, Karnataka States and married with the residents of Medak District.

- As per the Schedule of Constitution, Banjara caste is included in the list of Backward Classes in the State of Maharashtra whereas Lambada caste is included in the list of Scheduled Castes in the State of Karnataka. Therefore, the complainant had requested to enquire into the selection of ST women candidates selected unlawfully producing fake Caste Certificates in various departments by the District Selection Committee as per their study period and initiate necessary action against the Officers who issued the fake certificates.
- The District Tribal Welfare Officer, Medak and the Revenue Divisional Officer, Sangareddy had been addressed for conducting discrete enquiry into the matter and submit report with specific remarks.
- The RDO Sangareddy in his report Lr.No.A4/4944/2012, dated: -11-2012 reported that Smt.D.Jyothi, SGT, PS Shivarsandu Thanda of Narayankhed Mandal of Medak District originally belongs to "Rangari" (BC) Caste and got married with ST person by name Sri B.Maruthi R/o Thurkapally Thanda, Narayankhed Mandal and obtained ST Caste Certificate.
- Further, the Dist. Tribal Welfare Officer, Medak at Sangareddy vide his Lr.No.DTWO/A/64/2006-4, dated 20.03.2013 reported that he contacted the Head Master concerned, verified Certificates and found that she belongs to BC-B sub-caste 'Rangari'. When contacted her native villagers i.e. Turkapally Thanda of Narayankhed Mandal, it had come to his notice that she married to Sri Banoth Maruthi S/o Balkishan R/o Turkapally Thanda of Narayankhed Mandal in 2001. After the marriage, she obtained ST (Lambada) Caste Sl.No.29 vide Procs.No.D/No.1519/2002, dt.17.05.2002 from the MRO Narayankhed and selected as SGT in DSC 2001 with Hall Ticket bearing No.17004227.
- A notice was issued in Form-VI to the claimant to attend before the DLSC on 25.11.2011 and also several opportunities were given to furnish documentary evidences in support of her community claim.
- In response to the Notice, the individual had attended before the Committee and submitted her explanation on 20.03.2013 stating that she married one Sri Maruthi who belongs to Lambada (ST) caste (12) years back and produced marriage certificate and further stated that on presumption that since she got married to an ST person, she would also be treated as belonging to ST community and obtained ST caste certificate. She further stated that she was appointed as a teacher through DSC on the same ST caste certificate. As her husband was unemployed and eking their livelihood on her job, requested to consider dropping further action against her.
- The DLSC finally met on 25.04.2013 at 11.00 AM – candidate was absent. The DLSC after examining the evidences available on record, recommended for cancellation of ST Lambada caste certificate issued to Smt.D.Jyothi W/o Maruthi bearing No.D/1519/2002, dated 17.05.2002 issued by Tahsildar, Narayankhed in the light of guidelines issued by the Government in Memo.No.10956/CV.1/97-2, dated 16.02.1998 & Rule 6 of SCs/STs and BCs – Issue of Community, Nativity and Date of Birth Certificates Rules, 1997 – as she failed to produce any evidence in support of her caste claim.

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- Accordingly, the caste certificate bearing No.D/1519/2002, dated 17.05.2002 issued by Mandal Revenue Officer, Narayankhed to Smt.D.Jyothi W/o Maruthi was cancelled exercising powers conferred under section 5 (1) of the AP (SC/ST/BC) Issue of Community Certificate Act 16/1993 r/w sub-rule (7) of Rule 9 of AP (SC/ST/BC) Issue of Community, Nativity and Date of Birth Certificate Rules, 1997 communicated vide GO ms.No.58, SW (J) Department, dated 12.05.1997 as it was proved that she belongs to BC (Rangari) community.

2. Aggrieved by the above cancellation orders, Smt.D.Jyothi W/o B.Maruthi, aged about 36 years, Secondary Grade Teacher, Primary School, Shivarsanda Thanda, Narayankhed Mandal, Medak District, has filed the Statutory Appeal in the reference 2nd cited, under Section 7 (2) of AP (SC, ST and BCs) Regulation of Issue of Community Certificates Act, 1993, before the Government making 1) District Collector, Medak at Sangareddy and 2) District Educational Officer, Medak at Sangareddy as respondents.

3. In the reference 3rd cited, Government was admitting the Appeal, granting stay as prayed for by the appellant, requested the District Collector, Medak at Sangareddy to furnish para-wise remarks and original connected records of the Appeal to Government for finalizing the Appeal and reminded in the reference 4th cited.

4. Accordingly, in the reference 5th cited, the Collector & District Magistrate, Medak at Sangareddy has submitted para-wise remarks submitted by the DEO Medak.

5. The gist of the para-wise remarks submitted by the District Collector, Medak at Sangareddy is as follows:

- The Director of School Education, AP, Hyderabad had issued Notification for Recruitment of Teachers DSC 2001 inviting applications from the eligible candidates in the AP State.
- In response to the Press Notification, Smt.D.Jyothi had applied for the post of Secondary Grade Teacher under ST community. She appeared written Test for the post of SGT (Telugu Medium) conducted in the month of August, 2001 with Hall Ticket No.17004227.
- She was selected and appointed as Secondary Grade Teacher under reserved category of ST based on the marks and ranks obtained by her and posted at UPS Gardegaon, Kangti Mandal in the existing vacancy vide DEO Medak Proc.No.B7/351/DSC/2001/4150, dt.17.1.2002 subject to the following conditions:
 - That he/she would remain apprentice for a period of two (2) years as per Govt. orders.
 - That the above selection is purely and liable to be terminated at any time without assigning any reasons thereof.
 - That the services of the candidate will be regularized subject to his/her character and antecedents being found satisfactory.
 - That the selection will be cancelled, if the certificates furnished by the candidates in respect of qualifications, local area, caste etc., is found to be bogus, in addition to launching a criminal case against the individual.
 - That the individual will be paid remuneration during the apprenticeship at

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the following rate as per Govt. orders first year 1200.00, second year 1500.00.

- That he/she should join duty within a period of 30 days from the date of receipt of appointment orders as per G.O.Ms.No.193, GAD, dt.23.4.1999, failing which his/her appointment will be cancelled automatically without any further notice.
 - That he/she should produce original certificates and physical fitness certificate in the prescribed proforma issued by the Medical Authority not below the rank of Civil Surgeon to the Head Master prior to his/her joining duty for verification.
 - This appointment is purely adhoc and subject to the outcome of the judgement in WPs filed if any in the Andhra Pradesh High Court at Hyderabad.
- On a complaint made by Sri Ramesh Chavan, Banjara Sevalal Sangam dt.16.8.2011 that certain job selections were taken place unlawfully by producing fake certificates in various departments by ST women candidates, the District Collector, Medak had ordered the RDO Sangareddy and District Tribal Welfare Officer to conduct discrete and submit report with specific remarks. Accordingly, both the officers had conducted enquiry and submitted reports vide Lr.No.A4/4944/2012, dt. -11-2012 (by RDO Sangareddy) and Lr.No.TWD/A/64/2006-4, dt.20.3.2013 (by DTWO Sangareddy) respectively.
 - DLSC which met on 25.4.2013 under the Chairmanship of Joint Collector, Medak examined the caste certificate and also the reports of District Tribal Welfare Officer, Medak at Sangareddy and the Revenue Divisional Officer, Sangareddy and opined that Smt.D.Jyothi actually belongs to BC-B sub-caste Rangari but obtained ST Caste Certificate fraudulently from revenue authorities after marrying with ST caste person – therefore, recommended for cancellation of caste certificate of Smt.D.Jyothi W/o B.Maruthi R/o Thurkapally Thanda, Narayankhed Mandal of Medak District.
 - Basing on the reports of RDO Sangareddy, DTWO Sangareddy and basing on the recommendations of the DLSC, exercising powers conferred under section 5 (i) of Act 16/93 r/w sub-rule (7) of Rule 9 of Rules, 1997, the Dist. Collector, Medak at Sangareddy had cancelled the ST caste certificate fraudulently obtained by Smt.D.Jyothi W/o Maruthi as she belongs to BC-B (Rangari) caste, following due procedure.
 - After cancellation of the caste certificate, Smt.D.Jyothi has no locus standi to continue as Government teacher. Therefore, the DEO Medak at Sangareddy following due procedure, had terminated her from service.
 - Her contention that the DEO Medak had terminated her without following CCA Rules, 1991, was not correct – the certificate was cancelled after causing discrete enquiry by the authorities concerned.
 - The appellant was appointed as Teacher with certain conditions. Condition No.4 of the appointment order is as follows:

“4. That the selection will be cancelled, if the certificates furnished by the candidate in respect of qualifications, local area, caste etc. is found to be bogus, in addition to launching a criminal case against the individual.”

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- The appellant failed to maintain morality and sincerity in the matter of production of relevant genuine caste certificate to the appointing authority as per the condition imposed in the appointment order and thus it was established that she had cheated the department in a dubious manner for getting the Government job by adopting false and fake documents for which she deserves to be booked under criminal offence of law.
- The appellant herein filed OA No.6474/2013 praying the Tribunal to suspend the impugned proceedings Rc.No.8186/B2/2011-2, dt.22.8.2013 issued by the 1st respondent as it was issued without following the CCA Rules with a direction to reinstate her to duty with all consequential benefits and pass such other order or orders as the Hon'ble APAT Hyderabad may deem fit and proper in the circumstances of the case.
- The Hon'ble APAT on 30.8.2013 passed interim orders as follows:

“Pending further orders, the impugned proceedings Rc.No.8186/B2/2011-1, dt.22.8.2013 issued by the 1st respondent are suspended for a period of 10 days – post this case after 10 days”
- The Department had filed vacate counter in VMA No.2033/2013 with a prayer to vacate interim orders as per law.
- The appellant had again filed CA No.6474/2013 for non-implementation of interim orders dt.30.8.2013 and got extension of interim orders upto 31.05.2015.
- The appellant filed present appeal against cancellation of certificate on 21.5.2015 after litigating the matter before the Hon'ble Tribunal by getting interim orders suspending the termination orders dt.30.8.2013 of the 2nd respondent and hence when the matter was already in subjudice before the Hon'ble Courts, the appeal cannot be examined in the present scenario. The appellant ought to have exhausted the same before approaching the Hon'ble APAT but not at this stage in which the department had already filed detailed counter in the matter.
- The Hon'ble Supreme Court of India in Civil Appeal No.6007 of 2011 in the matter of DISTRICT PRIMARY SCHOOL COUNCIL, WB V/S MRITUNJOY DAS & ORS on 27-07-2011 held as follows:

“6. The contentions of the appellant who were respondents in the writ petition before the learned Single Judge are that once a fraud is played and certificate is obtained fraudulently, such conduct is required to be considered as adverse. It was submitted that obtaining a certificate in a fraudulent manner, makes the certificate itself non-est and void ab initio. It is also submitted by the learned counsel appearing for the appellant that the aforesaid action of dismissal from service of the contesting respondents was taken in view of their conduct as it was thought that a person of such a conduct should not be allowed to be appointed and continue as a teacher in a primary school as at the stage the students whom the respondents are going to teach are in formative stage.

7. We have considered the submission of the counsel for the parties. On going through the records placed before us, what we find is that the contesting respondents herein inflated their marks in order to obtain admission in the primary teacher's training institute. Had the marks not been inflated in the aforesaid manner, the contesting

respondents would not have got the admission in that particular institute as it is disclosed from the records. Therefore, the admission sought for was through an illegal means which is to be deprecated. The conduct of the contesting respondents being such, we cannot find fault with the course of action taken by the appellant herein. It is not that the contesting respondents were not given any opportunity of hearing. They were given a show cause notice and were also given an opportunity of hearing which opportunity they did not accept although they submitted a reply to the show cause notice. There is, therefore, no violation of the principles of natural justice in the present case. If a particular act is fraudulent, any consequential order to such fraudulent act or conduct is non-est and void ab initio and, therefore, we cannot find any fault with the action of the appellant in dismissing the service of the contesting respondents. In this context we refer to the decision of this Court in Ram Preeti Yadav v. U.P. board of High School and Intermediate Education and Others reported in (2003) 8 SCC 311 for the proposition that no person should be allowed to keep an advantage which he has obtained by fraud.

8. In view of the aforesaid position, we set aside the judgment and order passed by the Division Bench of the Calcutta High Court and restore the order passed by the learned Single Judge of the High Court.

9. The appeals are allowed to the aforesaid extent leaving the parties to bear their own costs."

- Further, the Hon'ble Supreme Court in SLP No.4533/2012 filed by Registrar General, Patna High Court V/s Pandey Gajender Singh and others allowed the appeal for dismissal/removal from service in the matter of public employment by appellant was upheld on 14-5-2012 set aside the judgment of High Court of Patna.
- In the light of the cases of Hon'ble Supreme Court of India, it is submitted that the orders passed by the District Collector, Medak Dist. is not erroneous and is in tune with the case of laws of Hon'ble Supreme Court of India, New Delhi.
- The grounds are defended as follows:
 - a) That the allegation of appellant that the said order was erroneous, is denied as it was made on factual aspects.
 - b) That the 1st respondent taken every care in deciding the case with the factual records before passing order.
 - c) That the 1st respondent followed the provisions of Act before coming to conclusion which is as per law.
 - d) That the 1st respondent examined the certificate in detail with all the authorities and concluded the enquiry and passed present order.
 - e) That there is no possibility of passing order in a routine matter as alleged by the appellant, but is passed with all full proof of the records.
 - f) That the appellant was given sufficient time for giving defense statement before cancellation of certificate and also termination order.
- In view of the above, and as the matter landed in Hon'ble APAT and pending at

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present, the appeal may not be deserved for passing any order unless the Hon'ble APAT decides the matter or otherwise the appellant comes before the authorities by withdrawing the litigation pending with Hon'ble APAT.

6. In the reference 6th cited, the District Collector, Medak at Sangareddy was requested to furnish the connected original records (File bearing No. C2/CV/DLSC/4638/2011-IV) in respect of Appeal filed by Smt.D.Jyothi, W/o B.Maruthi.

7. In the reference 7th cited, the Collector & District Magistrate, Sangareddy was submitted the copy of the parawise remarks and original connected records file bearing No. C2/CV/DLSC/4638/2011-IV to Government for taking necessary action.

8. In the reference 8th cited, the District Collector, Sangareddy was requested to obtain the latest of stage of O.A. filed by Smt.D.Jyothi, W/o B.Maruthi Occ: SGT, Primary School, Shiversandu Thanda, Narayanakhed Mandal which is pending before the Hon'ble APAT, Hyderabad and furnish the same to Government for taking further action in the matter.

9. In compliance to the Govt. Memos. Dt.6.11.2017, 14.09.2018 (the reference 8th cited), the District Collector, Sangareddy District in his Lr.Rc.No.8186/A2(B2)2011-2, dated 08.07.2019 (reference 9th cited) has informed the Government in TW Department that the Hon'ble High Court has disposed of the OA No.6474/2013 assigned re-number as WP (TR) No.862/2017 on transfer from Tribunal to High Court on 25.6.2019 – operative portion of the order is as follows:

"Having regard to the rival submissions made by the parties, this Court is of the considered view that this Writ Petition can be disposed of by directing the respondents to reinstate the petitioner into service and any disciplinary action initiated against the petitioner will be subject to outcome of the appeal preferred by the petitioner which is pending before the State Government against the orders passed by the District Collector.

With these observations, the Writ Petition is disposed of. No costs."

10. In the reference 10th cited, notices were issued to concerned and hearing was conducted on 7.12.2019 – Appellant absent. Sri K.Narasimhulu, Superintendent, O/o DEO Sangareddy present with the record. Adjourned to 04.01.2021 at 3 PM.

11. In the reference 13th cited, notices were issued to concerned to Called on 4.1.2020 and hearing was postponed to 7.3.2020.

12. In the reference 14th cited, notices were issued to concerned and hearing was conducted on 7.12.2019 – Sri J.Thulasiram, Advocate appeared on behalf of appellant, filed vakalat and prayed for adjournment to file written arguments. Adjourned to 29.9.2020.

13. In the reference 15th cited, the Commissioner, School Education, Telangana, Hyderabad **requested that** the community claim appeal petition of Smt. D.Jyothi which was pending before the Govt. at Tribal Welfare dept. and she was not attended for personal hearing on the scheduled date as such she had no claim what so ever in the matter and decide appeal on the material/documentary evidence available with the Govt. so as to enable this department to avoid further contempt proceedings in the CC. No. 1654/2019.

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14. In the reference 17th cited, notices were issued to concerned to Called on 29.9.2020 – both appellant and her counsel absent.

15. The Government has examined the evidences available on record, and observed that Smt. D.Jyothi D/o Pandari belongs to BC-B Rangari community obtained ST Lambada caste certificate bearing No.D/1519/2002, dated 17.5.2002 fraudulently from the Tahsildar, Narayankhed Mandal, Medak District, after marrying a ST Lambada person namely Maruthi in the year 2001, secured employment as Govt. Teacher in DSC 2001 with HT No.17004227 under ST category and posted in Upper Primary School, Challagidda LT (M), Narayankhed Mandal of Medak District. The appellant herself admitted the fact of obtaining the ST Lambada caste certificate as she married a ST person in her written representation dt.7.6.2012 before the DLSC headed by the Joint Collector, Medak. Therefore, as per the guidelines issued by the Government of India, Ministry of Home Affairs –for issue of Scheduled Caste and Scheduled Tribe Certificate Points to be observed as communicated in the enclosure to the Lr.No.35/1/72-R.U.(SCT-V) , dated 2nd May, 1975 addressed to the Chief Secretaries of all State Governments and Union Territory Administration, New Delhi-110 001, dated 2nd May, 1975 under "3. Claims through marriage – The guiding principle is that no person who was not a Scheduled Caste or a Scheduled Tribe by birth will be deemed to be member of Scheduled Caste or a Scheduled Tribe merely because he or she had married a person belonging to a Scheduled Caste or a Scheduled Tribe. Similarly, a person who is a member of Scheduled Caste or a Scheduled Tribe would continue to a member of that Scheduled Caste or Scheduled Tribe as the case may be, even after his or her marriage with a person who does not belong to a Scheduled Caste or a Scheduled Tribe".

16. Therefore, Government after careful examination of the appeal petition, findings arrived at by the DLSC, enquiry reports of RDO Sangareddy, District Tribal Welfare Officer, Sangareddy, written admission dt.7.6.2012 made by the appellant herself before the DLSC, para-wise remarks submitted by the District Collector, Medak at Sangareddy in Lr.No.C2/CV/DLSC/4638/2011-IV, dated 20.8.2015 fortified with the settled legal positions of the Hon'ble Apex Court, guidelines issued by the Government of India in Ministry of Home Affairs Circular Lr.No.35/1/72-R.U.(SCT-V), dated 2nd May, 1975 and disposal of O.A.No.6474/2013 numbered as WP (TR) No.862/2017 by the Hon'ble High Court on 25.6.2019, no necessity is felt to hold the case any longer before the Government in the absence of any valid reasons.

17. Accordingly, the orders of the District Collector, Medak at Sangareddy in Procs.No.C2/CV/DLSC/4638/2011-IV, dated 29.6.2018 are hereby upheld duly DISMISSING the Appeal filed by Smt.D.Jyothi W/o Maruthi, SGT, Primary School, Shiversanda Thanda, Narayankhed Mandal, Medak District (now Sangareddy District) under Section 7 (2) of Act 16 of 1993.

18. The Collector and District Magistrate, Sangareddy shall take necessary action in the matter.

19. The connected record (File bearing No. C2/CV/DLSC/4638/2011-IV, containing pages 1-244) received from the Collector and District Magistrate, Sangareddy through 8th read above are returned herewith to Collector and District Magistrate, Sangareddy and requested to acknowledge the receipt of the same immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

**Dr.CHRISTINA Z.CHONGTHU
SECRETARY TO GOVERNMENT**

To

1. The Collector and District Magistrate, Sangareddy District (w.e) (By RPAD)
2. The Collector and District Magistrate, Medak District.

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3. Smt. D. Jyothi, W/o. B.Maruthi,
Occ: Ex. SGT Primary School - Shiversandu Thanda,
R/o. H.No. 4-14/1, Turkapally Thanda Village,
Narayanakhed Mandal, Sangareddy District. (By RPAD)

Copy to:

The Commissioner School Education, Telangana, Hyderabad.

(for information and necessary action)

The District Education Officer Sangareddy District

(for information and necessary action)

The District Education Officer Medak District

(for information and necessary action)

The Commissioner of Tribal Welfare, TS, Hyderabad (for information)

The P.S. to Minister for ST Welfare (for information)

The PS to Secretary to Govt. (TW)

The PS to Special Secretary to Govt.(TW)

SF/SC.

//FORWARDED :: BY ORDER//

SECTION OFFICER